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the caption indicated merely the place where it was issued, and not the authority by which it was issued. *Beach v. O'Riley*, 14 W. Va. 55. The same view has been taken in Michigan. *Forbes v. Darling*, 94 Mich. 621, 7 N. W. 385. And also in an earlier Missouri case. *Fowler v. Watson*, 4 Mo. 27. However, it is immaterial in what part of the process the commonwealth is introduced, just so the command is given in its name. *White v. Commonwealth*, 6 Binney (Pa.) 17, 6 Am. Dec. 443.

On the other hand, it has been held that such constitutional provision is merely directory, and that process which does not run in the name of the state may be valid, provided it does not affect the substantial rights of the parties. *Truitt v. Baird*, 12 Kan. 420; *Creason v. Yardley*, *supra*. And where process commenced "State of Texas, County of Austin * * *," it was held that the name of the county might be rejected as mere surplusage. *Portis v. Parker*, 8 Tex. 23, 58 Am. Dec. 95.

This identical question seems never to have come up before the Supreme Court of Virginia. However, it has been held in Virginia that any count in an indictment was void, which failed to conclude "against the peace and dignity of the commonwealth," as provided by the constitution. *Commonwealth v. Carney*, 4 Gratt. 546; *Thompson v. Commonwealth*, 20 Gratt. 724; *Early v. Commonwealth*, 86 Va. 921.

The holding of the instant case that constitutional provisions are merely directory is manifestly unsound. But there may still be some ground for holding the order of publication to be sufficient, since it is merely constructive process, and the view might be taken that such is not process within the purview of the constitution. It has been held that although the state constitution provides that all process shall run in the name of the state, it is still within the power of the legislature to authorize notice of the institution of a suit to be given by an attorney or a party, instead of through a writ issuing out of court. *Gilmer v. Bird*, 15 Fla. 410.

CONTRACTS—CONSIDERATION—PERFORMANCE OF LEGAL OBLIGATION.—The defendant's daughter was engaged to marry G. The defendant made a contract with G, by which he promised to pay to his daughter in consideration of the marriage being consummated a certain sum of money annually. The marriage followed and for ten years the defendant continued to pay the annual instalments. The plaintiff held an assignment of the contract, and on the default of the defendant in the payment of an instalment, he brought an action on the contract. The defendant contended that there was no consideration for the agreement, because G was already engaged to the defendant's daughter and was under a legal duty to marry her. *Held*, there was consideration for the contract. *De Cicco v. Schweizer* (N. Y.), 117 N. E. 807. See NOTES, p. 354.

DIVORCE—GROUNDS—DESERTION.—A husband permitted his mother, who was a member of his family, to interfere with the household management and by word and act to otherwise make the wife's life unendurable. The wife left her husband, who made no attempt to effect a reconciliation and continued to keep his mother in charge of his household. Later suit was brought by the husband on the ground of desertion.

Held, the husband is not entitled to a divorce. *Fraser v. Fraser* (N. J.), 101 Atl. 58.

As a general proposition the wife has a right to a home in which she may be mistress and where she may be free from interference or abuse by other members of the household. If the wife is subjected to such discourteous treatment or interference by the husband's relatives or others she is justified in leaving. *Shinn v. Shinn*, 51 N. J. Eq. 78, 24 Atl. 1022. And this is true although there was an antenuptial agreement that the husband and wife should live with the husband's people. *Albee v. Albee*, 141 Ill. 550, 31 N. E. 153.

Unquestionably threats or physical violence inflicted by other members of the household upon the wife constitute a good ground for desertion if the husband refuses to provide a home elsewhere. *Hutchins v. Hutchins*, 93 Va. 68, 24 S. E. 903. And this is true where the husband neither approved nor rebuked the acts complained of. *Dakin v. Dakin*, 1 Neb. Rep. 457, 95 N. W. 781. Also where the husband allowed his children by a former marriage to swear at the wife and otherwise abuse her the wife is legally justified in deserting him. *Day v. Day*, 84 Iowa 221, 50 N. W. 979. The rule has likewise been extended to give the wife good grounds for desertion where the wife and her children by a former marriage are compelled to live in the same home with the lewd daughters of the husband by a former marriage. *Davis v. Davis*, 86 Ky. 32, 4 S. W. 822. And similarly the wife has a right to protection from quarrels and accusations of indecent conduct made by the husband's mother. *Mossa v. Mossa*, 123 App. Div. 400, 107 N. Y. Supp. 1044. It has even been held that a wife's refusal to go with her husband to live in the neighborhood of his relatives, who had formerly mistreated her, does not constitute legal desertion. *Powell v. Powell*, 29 Vt. 148.

On the other hand, a wife is not justified in leaving her husband because the members of the household do not accord to her every courtesy she desired and the husband protested against her leaving. *Buckner v. Buckner*, 118 Md. 101, 84 Atl. 156, Ann. Cas. 1914B, 628. And where the husband's mother living in the household is uncongenial, though not abusive towards the wife but makes minor criticisms of her, the wife is guilty of desertion when she leaves. *Jones v. Jones*, 55 Mo. App. 523. Similarly, a few petty criticisms made by other members of the household do not give the wife the right to leave where she was over-sensitive or too exacting in her wishes. *Dummer v. Dummer* (N. J.), 41 Atl. 149. Nor does the wife's capricious dislike of the husband's mother on account of her coarse but unabusive language give her good cause for going away with her father even at his request. *Klein v. Klein*, 29 Ky. L. Rep. 1042, 96 S. W. 848. Where the husband permits the mother of his former wife to exercise complete control over the household to the exclusion of the wife it was held by a divided court that the wife was not justified in leaving. *Geise v. Geise*, 107 Ill. App. 659. And where a husband forbade his step-son to visit his mother in the belief that the step-son was the one who made a murderous assault upon the husband some time before, the court held this did not justify the wife's desertion. *Fulton v. Fulton*, 36 Miss. 517.